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LETTER DATED 24 APRIL 1996 FROM THE PRESIDENT OF THE INTERNATIONAL TRIBUNAL FOR THE PROSECUTION OF PERSONS RESPONSIBLE FOR SERIOUS VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW COMMITTED IN THE TERRITORY OF THE FORMER YUGOSLAVIA SINCE 1991 ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to report to the Security Council the refusal of the Federal Republic of Yugoslavia (Serbia and Montenegro) to cooperate with the International Tribunal, as required by resolutions of the Council and the Tribunal's own Statute. The occasion for making this report is the failure of the said Republic to execute arrest warrants against three accused - Mile Mrkšic, Miroslav Radić and Veselin Šljivančanin - all of whom are on its territory and who are charged with the murder of 260 civilians and other unarmed men following the fall of the city of Vukovar in November 1991. On 3 April 1996, Trial Chamber I of the International Tribunal certified that the failure to effect service of the indictment was due to the refusal of the Federal Republic of Yugoslavia (Serbia and Montenegro) to cooperate with the Tribunal, and entrusted the President of the Tribunal with notifying the Security Council thereof, in accordance with the procedure of Rule 61 (E). Accordingly, I now make this report to the Security Council.

The refusal of the Federal Republic of Yugoslavia (Serbia and Montenegro) to cooperate with the International Tribunal should be seen in its broadest context. The International Tribunal was established by the Security Council in 1993 to respond to the appalling crimes that were taking place before the very eyes of the world in the former Yugoslavia. As the Tribunal was established by virtue of Chapter VII of the Charter of the United Nations, all Member States are under an obligation to assist it, notably by complying with its orders. The cooperation of the States of the former Yugoslavia is particularly imperative: without such cooperation, few accused would ever be delivered to The Hague to stand trial. To this day, however, the Federal Republic of Yugoslavia (Serbia and Montenegro) has not executed a single arrest warrant addressed to it.

In this case, the accused whom the Federal Republic of Yugoslavia (Serbia and Montenegro) has failed to arrest, have, moreover, been commended and promoted by the said Republic for those same deeds which the Prosecutor charges

as crimes against humanity, violations of the laws or customs of war and grave breaches of the Geneva Conventions of 1949. In the words of the Prosecutor in his final submission in this case, the said Republic has

> "... promoted, supported and continued to pay an indicted war criminal [Šljivančanin] and to maintain him as a senior officer in their army, and if [...] reports are correct, they now even have him training officer cadets. Can there be any more flagrant way of showing their disregard and even contempt for their obligations as a Member State of the United Nations, obligations they recently reaffirmed by entering into the Dayton Accords?" (Transcript of the Hearing of 28 March 1996, pp. 45 and 46)

The Trial Chamber endorsed the spirit of this remark when confirming the indictment against the three accused.

As President of the International Tribunal for the Former Yugoslavia, it is my duty to bring non-compliance by the Federal Republic of Yugoslavia (Serbia and Montenegro) with the Tribunal's orders to the attention of the Security Council so that it can decide upon the appropriate response.

(Signed) Antonio CASSESE
President